written both in French and in English, and since both copies were originals, the French words "fonds et biens", and the corresponding English words "goods and effects" were to be construed together; and that there being ambiguity in the French and none in the English, the latter should prevail; hence real property could not pass by the terms of the treaty.

It is submitted that both the premises and the conclusion reached are erroneous. The treaty of 1783 was negotiated in Paris, by Benjamin Franklin, and the original written in French, the English version being a translation.[5] Section six of this treaty was re-enacted by reference, in the treaty of 1827, also written in French.[6] It would seem therefore that the only text to be interpreted is the original, and that the test applied should be the meaning of the words as used in the French language, rather than (as in the principal case) the common law definition of the words. The term "biens" in French law means realty as well as personalty,[7] and why its meaning when placed in a French writing should be affected by common law definitions, or a questionable translation, is hard to comprehend.[8]

It is interesting to note that the courts have made no attempt whatever to translate the term "fonds"; while both Cashard and Wright in their translations of the Code Napoleon, have almost invariably translated it as "lands", or "soil".[9] This meaning is also given for "fonds" in the leading French dictionary.[10]

Treaties should be construed in a liberal manner,[11] and the argument that section six includes only personalty robs it of any value whatever, since there never has been any prohibition on the transfer of personalty to aliens, by will or otherwise.[12]

W. W. L., Jr.

ATTORNEY AND CLIENT: MISCONDUCT OF ATTORNEY IN PAYING FOR TESTIMONY.—Where material witnesses refuse to speak unless paid, is an attorney justified in offering money for

---

[5] I Laws of U. S. 176 (Biorens ed.); Sen. Exec. Docts. 2nd Session, 48th Congree, vol. 1, pt. 2, p. 1042, n.; Erickson v. Carlson (Neb., 1914), 145 N. W. 352.

[6] 8 Laws of U. S. 868.

[7] Bouvier's Law Dict.; Code Napoleon, § 516; Adams v. Akerlund (1897), 168 Ill. 632, 48 N. E. 454, 456.

[8] Erickson v. Carlson, supra, note 5; Adams v. Ackerlund, supra, note 7; Re Stixrud (1910), 58 Wash. 339, 109 Pac. 343, 33 L. R. A. (N. S.) 632, Ann. Cas. 1912 A. 850; University v. Miller (1831), 14 N. C. 188, accord. Meier v. Lee (1898), 106 Iowa 303, 76 N. W. 712, 715, cited with approval in the principal case, contra.

[9] Code Napoleon, §§ 518, 522, 524; The French Civil Code, E. Blackwood Wright (1908); The French Civil Code, Cashard (1895); see the corresponding sections.

[10] Grande Larousse Dict.

[11] Hauenstein v. Lynham (1879), 100 U. S. 483; Schultze v. Schultze (1893), 144 Ill. 290, 33 N. E. 201.

[12] 2 Cyc. 81.

their testimony? This interesting point of legal ethics arose in the case of *In re O'Keefe*.[1] If construed strictly in terms of legal ethics the question is, shall the attorney's duty to his client take precedence over his duty to the state? The defense offered by O'Keefe was singularly like that exposition of Lord Brougham's[2] uttered on the impulse of the moment, in the celebrated defense of the Queen, where he said, "An advocate in the discharge of his duty knows but one person in all the world and that person is his client. To save that person by all means and expedients and at all hazards and costs to other persons and among them to himself, is his first and only duty, and in performing this duty he must not regard the alarm, the torments, the destruction he may bring upon others."

All will admit that an attorney who is defending his client may justifiably avail himself of every honorable means to save him from injury through the forms of law. But Lord Brougham's principle would justify availing oneself of even dishonorable means to accomplish the end in view. This is not ethical, and were lawyers to follow this construction, we should agree with Seneca, "that lawyers are a venal race".

It takes an iron judge to decide on strictly ethical grounds not biased by human prejudices. Shall he disbar an eminent attorney seeking to maintain his client's honor from the trickery of rogues, who steps one foot without the pale? This was the situation in In re Barnes,[3] that interesting California case relied on by counsel for the defense, characterized in the principal case as "remarkable". It was the outcome of the famous suit of Sarah Althea Hill against Senator Sharon[4] of Nevada. On one side was Judge Terry, a principal in the celebrated Broderick duel of the fifties, and who later married his client; on the other was General Barnes. Here for the last time flared up the dying embers of the old North and South hatred of the Vigilante days. Barnes was duped into believing an important document on which his client's honor hung, was to be had for $25,000. He paid the sum and received a forgery. In the disbarment proceedings that followed, the judge discharged him, saying, "Lawyers meet and are compelled to contend with all sorts of people. They have in their hands the interests of their clients and they should not permit him to lose the benefit of important testimony upon any refined ideas of propriety." This attitude is substantially that of Lord Brougham.

---

[1] (Mont., June 27, 1914), 142 Pac. 638.

[2] Essay on Professional Ethics, George Sharswood, Am. Bar Assoc. Rep., vol. 32.

[3] (1888), 2 Cal. Unrep. Cas. 847, 16 Pac. 896.

[4] Sharon v. Sharon (1885), 67 Cal. 185, 7 Pac. 456; Sharon v. Sharon (1890), 84 Cal. 424, 23 Pac. 1100· Hill v. Sharon (1888), 131 U. S. 438, 33 L. Ed. 223, 9 Sup. Ct. Rep. 799.

Undoubtedly the correct view is that of Mr. Justice Miller in In re Thomas,[5] "Lawyers have a duty undoubtedly to their clients, but that is not the first duty as is generally supposed. Their first duty is in the administration of justice and their duty to their client is subordinate to that." It is only necessary to mention the dangerous precedent that is set in paying witnesses for testimony, the demoralizing effect upon the witness, and the close connection between payment for evidence of this kind and bribery therefor. The judge in this case recognizing the danger ordered O'Keefe disbarred for thirty days, this short sentence being given in view of extenuating circumstances.

L. G.

BANKRUPTCY: CONSTRUCTION OF EXEMPTION STATUTES: AUTOMOBILES.—That a person should be given a second chance to make good as a self-supporting citizen, seems to be the reason for the existence of bankruptcy statutes. The courts continue to enforce the spirit of this just provision of statute law by giving to words in those statutes a liberal construction. The ease with which the United States Circuit Court of Appeals of the Eighth Circuit in the case of *Patten et al. v. Sturgeon et al.*,[1] arrived at the conclusion that an automobile was a "carriage", within the meaning of the Oklahoma statute[2] which exempts to every family "one carriage or buggy" seems to be the result of this rule of liberal construction.

In the consideration of penal statutes the opposite rule of strict construction, which has led to several decisions[3] that an automobile was not a "carriage", usually prevails, although in some jurisdictions the courts in considering automobiles as "trucks, vans or wagons",[4] or "carriages"[5] show the tendency toward liberality.

In support of the principal case it may be said that the Court of Civil Appeals of Texas[6] has repeatedly held that in the interpretation of an exemption statute a liberal view should be taken, and has allowed the word "carriage" to include an automobile. The Court of Chancery in New Jersey[7] has decided that an automobile

---

[5] (1888), 30 Fed. 242.

[1] (Apr. 14, 1914), 214 Fed. 65.

[2] Sess. Laws Okl. (1905), ch. 18, § 1, subd. 10.

[3] Commonwealth v. Goldman (1910), 205 Mass. 400, 91 N. E. 392; Doherty v. Town of Ayre (1908), 197 Mass. 241, 83 N. E. 677, 14 L. R. A. (N. S.) 816.

[4] Fifth Avenue Coach Co. v. City of New York (1909), 195 N. Y. 19, 16 Ann. Cas. 695.

[5] Scranton v. Laurel Run Turnpike Co. (1909), 225 Pa. 82, 73 Atl. 1063.

[6] Parker v. Sweet (Tex. Civ. App., 1910), 127 S. W. 881; Peevehouse v. Smith (Tex. Civ. App., 1913), 152 S. W. 1196; Hammond v. Pickett (Tex. Civ. App., 1913), 158 S. W. 174.

[7] Diocese of Trenton v. Toman (N. J. Eq., 1908), 70 Atl. 606.